

Adopting a Child In Michigan



State of Michigan
Family Independence Agency

Michigan Family Independence Agency Adoption Services

Table of Contents

A. Introduction	1
B. Definitions	1
C. Common aspects of adoption in Michigan	2
D. Types of adoptions in Michigan	4
E. Temporary placement prior to adoption	6
F. Assistance in adoption	7
G. The role of the family court	7
H. The children's ombudsman	8
I. Information services	9
J. Recommended questions	10

Adopting A Child In Michigan

A. INTRODUCTION

Prior to 1995, Michigan was one of a very few states that required a court termination of the rights of a child's parents before the child could be placed in a home for the purpose of adoption. Michigan prohibited the parents of a child from consenting to the adoption of their child by an unrelated, prospective adoptive parent.

The law required that the placement of a child with an unrelated individual or couple could only be done by a state licensed child placing agency or by the Michigan Family Independence Agency. This made it impossible for the child's parent to select a prospective adoptive parent independent of a child placing agency. In addition, placement of an infant directly from the hospital with a prospective adoptive parent required licensing the adoptive parent as a foster parent.

As of 1995, changes in Michigan's adoption law have modified these restrictions. In brief:

- It is possible to make a "temporary placement" of a child in a prospective adoptive home immediately following birth, while the legal proceedings are being completed.
- Parents are able to make a "direct placement" of their child; i.e., parents are able to personally select the adopting parent and consent to adoption of their child by an unrelated individual or couple.
- A parent can enlist the assistance of an "adoption facilitator" in effecting an adoption. "Adoption facilitators" are child placing agencies or attorneys.

B. DEFINITIONS

1. Adoptee - The child or adult to be adopted or who is adopted.
2. Adoption facilitator - A child placing agency or an attorney.
3. Adoption Facilitator Clearinghouse Record - A public information form completed by adoption facilitators and filed with the Family Independence Agency by courts.
4. Agency placement - The placement of a child for adoption by a child placing agency, the Michigan Family Independence Agency or a Michigan family court.
5. Child placing agency - A private organization licensed by the state to place children in foster care or adoption.

6. Consent - The legal document by which all parental or agency rights over a specific child are voluntarily relinquished to the family court for placement with a specific parent.
7. Court - Family courts in Michigan. Unless stated otherwise, references to "court" in this pamphlet refer to the family division of the county circuit court, usually referred to as the "family court."
8. FIA - The Michigan Family Independence Agency.
9. Formal placement - An adoptive placement approved by the court.
10. Preplacement assessment - An assessment of a prospective adoptive parent required in a direct placement.
11. Relative - A person related to the adoptee within the fifth degree by marriage, blood or adoption. They include:

Parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.
12. Release - The legal document by which all parental rights over a specific child are voluntarily relinquished to the Family Independence Agency or to a child placing agency.

NOTE: Reference throughout this pamphlet will be to the **parent** (singular) **of the child**, but in general, both parents must be involved even though the parents are not married, or are not married to each other. Likewise the prospective adopting parent is used in the singular but refers to an adoption by a single person or married couple.

C. COMMON ASPECTS OF ADOPTION IN MICHIGAN

A **simplified view of the legal process** of an adoption, without a temporary placement, is presented here in an effort to make it clear how the adoption process in Michigan works:

- The prospective adoptive parent petitions the court to adopt a specific child. The petition is filed in the court of the county where the child is found or where the adoptive parent resides.
- The petition and other legal forms are normally accompanied by a consent signed by the parent, a child placing agency, a court or the FIA, depending on the type of adoption.

- The court orders an investigation to assure that the interests of the adoptee are protected.
- Following receipt of a completed report of investigation and satisfied that the adoptee's best interests are served, the court will issue an order terminating the rights of the parent, the child placing agency, court or the FIA. The court makes the adoptee a ward of the court, and orders placement in adoption, and assigns a child placing agency, the FIA or an agent of the court to supervise/monitor the adoptive placement.
- Six months after the placement, or longer if the court finds it in the adoptee's best interest, the court will enter an order of adoption. The order of adoption completes the process.

There are other considerations or aspects of adoption in Michigan that are common regardless of the type of adoption. Some of these are:

1. Adoption makes the adoptee an heir of the adopting parent.
2. The family name of the adopting parent may or may not become the name of the adoptee at the discretion of the parties.
3. A court appointed guardian must act on behalf of any unemancipated minor parent who consents to an adoption of a child or who releases a child to a child placing agency for adoption.
4. An adoption subsidy may be available to assist with the financial burden of care for a child with special needs. A pamphlet explaining adoption subsidy is available from child placing agencies, the FIA or attorneys.
5. At the time of an adoption, written **non-identifying** information about the adoptee, the adoptee's health history, and the adoptee's family background is made available to the adopting parents. In direct and agency placements identifying information is withheld unless the adoptee's parent and the prospective adoptive parent elect to exchange identifying information.
6. All fees connected with an adoption must be approved by the court. Permissible costs, fees, and any exchange of goods or services, are specified in the law. They must be reported to the court prior to formal placement, and again before the court issues the final order of adoption.
7. Placement of a child for adoption can be done only by the parent of the adoptee, a child placing agency, the FIA, or a court that has the legal and physical custody of the adoptee.
8. Only prospective adoptive parents may solicit biological parents

for adoption. (“Solicit” means contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient.)

9. Before a formal placement the rights of **both parents** must be terminated.

D. TYPES OF ADOPTIONS IN MICHIGAN

Michigan law allows for many different types of adoptions. The most common adoptions are infant adoptions, state and court ward adoptions, relative adoptions, step-parent adoptions, intercountry and interstate adoptions, and adult adoptions.

1. **Infant adoption** - Infants placed in adoption by child placing agencies or by the parent through direct placement.

Agency adoption - In agency adoptions, the parent releases the adoptee to a child placing agency. The child placing agency selects the prospective adoptive parent from among its applicants and consents to the adoption. In many child placing agencies it is possible for the adoptee’s parent to participate in the selection of the prospective adoptive parent. The sharing of identifying information between the child’s parent and adoptive parent is permitted as well as an agreement for continued contact. Agencies can place a child with a prospective adoptive parent before formal placement through a temporary placement (See Section E, Temporary Placement Prior to Adoption) or by licensing the prospective adoptive parent as a foster parent.

Direct placement adoption - The parent of the adoptee **personally selects the prospective adoptive parent, transfers physical custody of the adoptee to the adoptive parent and consents to the adoption.** The parent retains all parental rights over the adoptee until formal placement. Attorneys and child placing agencies can assist a parent in making a direct placement.

Information about a prospective adoptive family is given to the parent or guardian seeking to place a child for adoption by an attorney, child placing agency or the prospective adopting parent. In addition, the preplacement assessment must be given to the parent before placement of the adoptee. The parent or guardian and the prospective adoptive parent will decide whether to exchange **identifying information** and whether to meet each other.

In a direct placement, the parent may place the child with the prospective adoptive parent before formal placement. This is called a **temporary placement** and can only be done if all the legal

requirements are met. Temporary placement will be explained further in Section E, below.

2. **State and court ward adoption** - Adoption of a child whose parental rights have been terminated by the family court and are committed to the state (state wards) or are placed under the care and supervision of the state (court wards).

The FIA is responsible for the adoptive placement of state wards and court wards. These children are placed by the FIA and by child placing agencies under contract with the state. Most of the children fall into the following groups:

- Minority children.
- Older children.
- Children with physical, emotional or mental impairments.
- Family groups of two or more children.

The FIA's emphasis in adoption of state and court wards is on placement with relatives or with foster parents with whom the adoptee has a significant relationship. In fact, approximately 90 percent of the FIA's adoptions, each year, are with foster parents and relatives.

For those children for whom a family is not readily available, the FIA uses a variety of recruitment efforts such as newspaper articles, television, local child placing agency recruitment and the Michigan Adoption Resource Exchange (MARE) photo listing book. The MARE photo listing book can be found in many public libraries, at many child placing agencies and at many of the local offices of the FIA.

3. **Relative adoption** - The adoption of a child by a relative (See Section B, Definitions, Relative). Many courts provide the necessary services for relative adoptions.
4. **Step-parent adoption** - The adoption of a child by a step-parent. In the case of a divorce, the non-custodial parent must consent to the adoption or the rights of the non-custodial parent must be terminated because the court has determined that the non-custodial parent has failed significantly in his or her parental responsibilities. The court provides the necessary services for step-parent adoptions.
5. **Intercountry or interstate adoption** - The adoption of a child from another country, or from another state by a Michigan family.

Michigan law recognizes the adoption, the consent to adoption, or the release of a child for adoption, if any one of those actions is in accordance with the laws of the state or country in which it was executed. Michigan law permits courts to certify an adoption completed in another country so that a Michigan birth certificate can be issued for the child.

6. **Adult adoption** - Adoption of an adult by another adult with the consent of the adoptee. As with all Michigan adoptions, adult adoption makes the adoptee an heir of the adopting parent. The court or an attorney can assist in an adult adoption.

E. TEMPORARY PLACEMENT PRIOR TO ADOPTION

The parent may place an adoptee in the care of a prospective adoptive parent prior to formal placement through a temporary placement. This permits an infant to be placed directly from the hospital with a prospective adoptive parent.

With written authorization of the parent, a child placing agency may make a temporary placement of a child.

A temporary placement must meet all of the following requirements:

- The prospective adoptive parent must be a Michigan resident.
- In a direct placement, the parent must be assisted by a child placing agency or an attorney.
- A written statement about the transfer of physical custody of the adoptee must be signed and witnessed by all parties.
- The attorney or child placing agency that assists must submit a report to the court within two (2) working days of the transfer of physical custody.

The court has the authority to resolve any custody disputes that arise between temporary placement and formal placement.

A preplacement assessment is required in all direct placements. If a temporary placement is made, the preplacement assessment must be completed before the temporary placement. If no temporary placement is made, it must be completed before formal placement. The preplacement assessment is prepared by a child placing agency upon the request of a prospective adopting parent. Prospective adoptive parents may request completion of a preplacement assessment even though no adoptee has been located.

F. ASSISTANCE IN ADOPTION

Help in adoption, **for the parent of an adoptee or for a prospective adoptive parent**, is available as follows:

1. Attorneys, child placing agencies or the FIA will provide a written document identifying the services they provide. Specifically the facilitator will provide:
 - A copy of this pamphlet about adoption in Michigan. The facilitator will review the pamphlet and discuss the alternatives that are applicable to you.
 - Information about how to get the directory of children with special needs who are available for adoption.
 - Information about how to access the registry of adoptive homes (i.e., the couples or persons seeking to adopt an infant).
 - Information about how to obtain Adoption Facilitator Clearinghouse Record Forms about child placing agencies and attorneys.
 - Information about the kinds of adoptions the facilitator provides.
2. Counseling services for a parent of an adoptee may be obtained from a child placing agency, psychologist, psychiatrist or licensed counselor. In a direct placement or in a parent release of an adoptee, a referral for counseling service must be made unless waived by the parent.

Counseling services for the parent or guardian of an adoptee will be paid for by the prospective adoptive parent unless the parent waives the right to counseling.

G. THE ROLE OF THE FAMILY COURT

Every adoption is processed through the court and the court makes the final decision that the placement is in the best interest of the adoptee.

In summary:

- The court receives the request (petition) of the prospective adoptive parent to adopt a specific child.
- The court receives the consent to adopt and all other required legal forms.
- The court will order an investigation and will review the investigation report to assure that the adoption is in the best interest of

the adoptee. A preplacement assessment or home study may satisfy the need for an investigation.

- The court will terminate the rights of the parent (**Note: The rights of both parents must be terminated by the court before formal placement**). The adoptee will be made a ward of the court and placed in the home of the adopting parent for a period of supervision. This supervisory period is normally six months but may be waived or extended at the discretion of the court. The court will appoint a child placing agency, the FIA or an agent of the court to oversee the adjustment of the adoptee and family during the period of supervision. In a direct placement, a child placing agency must be appointed by the court. This is usually the agency that prepared the preplacement assessment.
- Upon satisfactory completion of the supervisory period, the court enters a final order of adoption. This order of adoption completes the legal process. It makes the child an heir of the adopting parent and in the eyes of the law this child is as much a child of the adopting parent as one who would have been born to the parent.
- The court notifies the department of community health of the adoption permitting the department of community health to issue a new birth certificate in the adoptive name.

The court **must also approve any and all charges and fees** connected with the adoption. This includes fees paid to an agency or attorney, any service fees, and any exchange of goods connected with the adoption.

H. THE CHILDREN'S OMBUDSMAN

The legislature established the Office of the Children's Ombudsman to ensure compliance with pertinent laws, rules and policies that govern the placement of children in adoption. Birth parents, foster parents, adoptive and prospective adoptive parents, and guardians as well as others may file complaints with the Ombudsman when it is believed that the FIA or a child placing agency is not acting in compliance with laws, rules and policies governing placement of children in adoption. Complaints may be filed with:

Children's Ombudsman
Department of Management and Budget
P.O. Box 30026
Lansing, Michigan 48909
Telephone: (517) 373-3077

Complaints about an attorney should be filed with the Attorney Grievance Commission rather than the Children's Ombudsman.

I. INFORMATION SERVICES

1. Adoption agencies and attorneys - Information about adoption agencies and attorneys serving a particular county or counties, the number of adoptions facilitated by the adoption agency or attorney, and fees charged can be obtained by writing to:

Michigan Family Independence Agency
Adoption Facilitator Clearinghouse
Payment/Document Control Division
P.O. Box 30037
Lansing, Michigan 48909

The FIA will charge a fee for transmitting copies of the Adoption Facilitator Clearinghouse Record forms.

2. Access to information in adoption records - In general, adoption records are “closed” or confidential. Available non-identifying information, and medical information regarding the adoptee and the adoptee’s family, is made available at the time of adoption to the adoptive parent and upon request thereafter to the adoptive parents of a minor, the adult adoptee, birth parents and birth siblings.

Identifying or confidential information can be obtained if parties consent to the release of that information. Birth parents and adult siblings may register their statements of consent or denial to have information released about themselves with the Central Adoption Registry which is maintained by the Family Independence Agency, Adoption Services Division. Adult adoptees can contact the court that finalized their adoption and the agency that handled their adoption if they wish to file a statement releasing their information to birth family members.

For additional information regarding access to closed adoption records, request Publication 439, “Release of Information from Michigan Adoption Records,” from child placing agencies, attorneys or contact:

The Central Adoption Registry
Michigan Family Independence Agency
P.O. Box 30037
Suite 413
Lansing, Michigan 48909

3. Adoption subsidy - Since 1969, Michigan has provided a financial support subsidy, and since 1972, a medical subsidy, or both, for those children who have special needs and would not be

adopted without a subsidy. The subsidy is not linked to a family's financial need, but to an adoptee's eligibility.

The FIA publishes a booklet about adoption subsidy entitled "Michigan Adoption Subsidy Program Information Guide" (Publication 538). Child placing agencies, attorneys and the FIA are required to provide a copy of this booklet prior to placement of a child for adoption.

J. RECOMMENDED QUESTIONS

1. If you are a parent, or are about to become a parent, and are considering placing your child for adoption, questions you may wish to ask an adoption facilitator are:
 - a. How many adoptions have you facilitated?
 - b. Does your practice encourage or permit "open" as well as confidential adoptions?
 - c. Can you help me locate someone to adopt my child?
How do you do this?
 - d. How do you arrange for or provide counseling?
 - e. How do you assure my rights are protected?
 - f. What fees do you charge, who is responsible for paying the fees, and how are they handled?
 - g. Can you help me apply for financial assistance such as Medicaid?
2. If you are a prospective adoptive applicant, questions you may wish to ask an adoption facilitator are:
 - a. What training and experience have you had in providing adoption services?
 - b. How many and what kinds of adoptions have you facilitated?
 - c. Do you provide services in interstate and intercountry adoptions?
 - d. Can you help me locate a child to adopt? How do you do this?
 - e. Will you take calls from birthparents responding to my ads or letters?
 - f. Will you facilitate meetings between me and birthparents?
 - g. What adoption services do you provide directly and what services do you provide through referral?

- h. Which services are required and which are optional?
- i. What is the expected range of all fees and costs that I will be responsible for? What is your average cost per adoption?
- j. If I pay for birth parent expenses, how will these payments be handled?
- k. What happens to the money I paid if I terminate your services or if an adoption does not occur?
- l. May I have the names of and may I contact other adoptive applicants who have used your services and have agreed to be contacted?

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The Family Independence Agency will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to an FIA office in your county.